

1 **KEYHAN MOHANNA**
2 **KEYHAN MOHANNA AS TRUSTEE OF THE**
3 **KEYHAN REVOCABLE TRUST DATED JULY 8, 2003**
4 1405 Greenwich Street, Apt. #6
5 San Francisco, California 94109
6 Tel: (415)260-1873
7 Fax: (415)474-2900
8 Email: keyhan6@yahoo.com

9 **PLAINTIFF IN PRO SE**

10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 **KEYHAN MOHANNA,**
14 **INDIVIDUALLY AND KEYHAN**
15 **MOHANNA, TRUSTEE OF THE**
16 **KEYHAN MOHANNA REVOCABLE**
17 **TRUST DATED JULY 8, 2003**

18 **Plaintiff,**

19 **v.**

20 **WELLS FARGO BANK, N.A.**
21 **SUCCESSOR BY MERGER WITH**
22 **WACHOVIA MORTGAGE, FSB;**
23 **FORMERLY KNOWN AS WORLD**
24 **SAVINGS BANK, FSB ITS**
25 **SUCCESSORS AND/OR ASSIGNS**
26 **and DOES 1-25, Inclusive**

27 **Defendants.**

28 **CV 16 1036**
Case No.

ENFORCEMENT ACTION FOR
DECLARATORY RELIEF
RELATING TO VIOLATIONS OF
THE FEDERAL TRUTH IN
LENDING ACT ("TILA") AND
WRONGFUL FORECLOSURE

[15 U.S.C. § 1601 et seq.]

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff KEYHAN MOHANNA, individually and as Trustee
of the KEYHAN MOHANNA REVOCABLE TRUST DATED JULY 8, 2003
("Plaintiff"), complains and alleges as follows:

FILED

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SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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I.**NATURE OF THE ACTION**

This Enforcement Action is filed defensively and affirmatively under the Federal Truth In Lending Act, hereinafter referred to as TILA, *15 U.S.C. §§ 1601, et seq.* to enforce Plaintiff's rights under TILA, including without limitation, the right to rescind a consumer transaction and to void Defendants' security interest in Plaintiff's Property, by reason of Defendants' violations of TILA and Regulation Z, *12 C.F.R. § 226* ("Reg. Z"). In addition, Plaintiff seeks actual and statutory damages, reasonable attorney's fees and costs by reason of Defendants' violations of TILA. Finally, Plaintiff seeks declaratory relief.

II.**STATEMENT OF JURISDICTION**

This Court has proper subject matter Jurisdiction over the within action as the real property, the subject of instant action, is so situated and physically located within this California District Judicial System.

Jurisdiction is conferred on this court by *15 U.S.C. § 1640(e)*, *28 U.S.C. §§ 1331, 1337* and by the doctrine of pendent jurisdiction. The Court has authority to issue a declaratory judgment by virtue of *28 U.S.C. § 2201*.

III.**SUBJECT REAL PROPERTY AT ISSUE**

1 The Real Property (herein after referred to as "Property"), the subject of any
2 and all claims of any of the Parties hereto, and which is the subject of instant
3 action, and that of which Plaintiff prays for a Decree and/or Order of Declaratory
4 Relief and Quiet Title thereto. The "Subject Property" address and legal
5 description is as follows: 1405 Greenwich Street, #1, San Francisco, CA 94109.
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7 More particularly, the legal description of this property is:
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9 CONDOMINIUM UNIT NO. 1, LOT 50, INCLUSIVE, AS SHOWN UPON
10 THE CONDOMINIUM MAP AND DIAGRAMMATIC FLOOR PLAN
11 ENTITLED "MAP OF 1405 GREENWICH STREET" WHICH WAS FILED
12 FOR RECORD ON DECEMBER 10, 1999 IN PARCEL MAP BOOK 44, PAGES
13 60 TO 65, INCLUSIVE, AND THE "AMENDMENT TO CONDOMINIUM
14 PLAN" RECORDED MAY 5, 2000 AS DOCUMENT NO. 2000-G769926-00, IN
15 THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN
16 FRANCISCO, STATE OF CALIFORNIA (REFERRED TO HEREIN AS "THE
17 MAP"), AND AS FURTHER DEFINED IN THE DECLARATION OF
18 COVENANTS, CONDITIONS AND RESTRICTIONS OF 1405 GREENWICH
19 STREET HOMEOWNERS ASSOCIATION RECORDED ON MAY 5, 2000 AS
20 DOCUMENT NO. 2000-G769926-00, OFFICIAL RECORDS OF THE CITY
21 AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA (REFERRED
22 TO HEREIN AS "THE DECLARATION"). See attached **Exhibit "A"**
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1 incorporated herein by reference for full legal description.

2 Assessor's Parcel No: 0523-050.

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4 **IV.**

5 **IDENTITY OF PARTIES**

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7 Plaintiff is informed and believes, and thereon alleges, that at all times
8 relevant hereto Defendant, WELLS FARGO BANK, N.A., herein referred to as
9 WELLS FARGO, is a national banking and lending institution licensed to do
10 business in the State of California, in and of the County and City where subject
11 "PROPERTY" is so situated and physically located which is within this Courts
12 Judicial District. WELLS FARGO claims they were granted all beneficial interest
13 in the Deed of Trust from World Savings Bank, FSB, hereinafter referred to as
14 WSB, the originating lender, when they acquired all of Wachovia Mortgage,
15 FSB's, hereinafter referred to as Wachovia, assets. Plaintiff contends that when
16 Defendant WELLS FARGO acquired the remaining assets of Wachovia, it did not
17 include Plaintiff's debt obligation.

18
19 WSB, was not a legal lending institution when the Deed of Trust was
20 executed in this matter. WSB was an unregistered entity in the State of California.
21 WSB was unregistered and unlicensed to do business in the State of California and
22 their rights to conduct business in the State of California was not permitted.
23 Attached as **Exhibit "B"** and incorporated by reference is a copy of a Certificate

1 of No Record from the California Secretary of State.

2 Pursuant to *California Corporations Code 2011(c)*, every such corporation
3 shall survive and continue to exist indefinitely for the purpose of being sued in any
4 quiet title action. Any judgment rendered in any such action shall bind each and
5 all of its shareholders or other persons having any equity or other interest in such
6 corporation, to the extent of their interest therein, and such action shall have the
7 same force and effect as an action brought under the provisions of *Sections 410.50*
8 *and 410.60 of the Code of Civil Procedure*.

9 Plaintiff is unaware of the true names and capacities of any individuals
10 and/or entities sued herein under the fictitious names DOES 1 to 25, inclusive or,
11 to the extent that the names of such individuals or entities may become known to
12 Plaintiff, and as such Plaintiff cannot state with any certainty that such a Cause of
13 Action lies herein as against such individuals or entities, or Plaintiff is unable to
14 alleged the elements of such Cause of Action, at this time, and as such said
15 Defendant are herein named in accordance with the provisions of (*Cal Code of*
16 *Civil Procedure Sec. 474*). Plaintiff thereon reserves the right to amend instant
17 Complaint to allege the true names and capacities of such fictitiously named
18 Defendant when the same become known or when it has been ascertained with
19 reasonable certainty that such Cause of Action hereunder can be satisfactorily
20 stated and maintained as against each such fictitiously named individual or entity.

1 Plaintiff is informed and believes and thereon alleges, that in committing
2 certain acts alleged, some or all of the Defendants named were acting as the
3 Agents, Joint Ventures, Partners, Representatives, Subsidiaries, Affiliates,
4 Associates, Successors, Assigns and/or Employees and/or Agents or some or all of
5 the other Defendants, and that some or all of the conduct of such Defendants, as
6 complained of herein, was within the course and scope and agency of such
7 relationship.
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11 At all times mentioned in this Complaint, Plaintiff, KEYHAN MOHANNA,
12 is and remains an individual consumer residing in the County of San Francisco and
13 is the owner, both legal and equitable, of the certain Subject Property.
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15 **V.**

16 **DATE OF DETERMINATION**

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18 Plaintiff herein request that the date of the Judicial determination sought be
19 the date the Notice of Rescission was mailed to Defendant which was April 14,
20 2014.
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22 **VI.**

23 **ISSUES PRESENTED**

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25 TILA, 15 U.S.C. § 1635, Reg. Z §226.23 allows for a party to rescind the
26 Note and Deed of Trust by operation of law. This occurred in this case as of April
27 14, 2014 when Plaintiff sent a Notice of Rescission to Defendant, WELLS
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1 FARGO, and more than twenty (20) days have elapsed without a declaratory action
2 being filed against Plaintiff by WELLS FARGO.
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4 Specifically, the undisputed evidence shows that Plaintiff rescinded the Note
5 and Deed of Trust under TILA 15 U.S.C. § 1635 on April 14, 2014, effectively
6 voiding the contract and debt. Therefore, Defendant has no standing to enforce the
7 Deed of Trust or collect payments under the contract because the contract has been
8 extinguished by operation of law as of April 14, 2014.
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11 The facts are clear and undisputed; the loan that is the subject matter of this
12 case was rescinded and extinguished by operation of law on April 14, 2014. Since
13 Defendant WELLS FARGO failed to challenge the Notice of Rescission within the
14 twenty (20) statutory days mandated under TILA, Defendant, WELLS FARGO,
15 and any other entity, cannot obtain any right or interest to enforce a contract that
16 was made void after April 14, 2014.
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20 **Material Facts Leading to Notice of Rescission**

21 On December 21, 2006, Plaintiff entered into a consumer loan transaction
22 with WSB, the originating entity, for the refinancing of his single family residence
23 that is commonly known as 1405 Greenwich Street, Apt. #1, San Francisco, CA
24 94109. Plaintiff acknowledges that a Promissory Note ("Note") was executed as
25 part of the Loan transaction. Additionally, based upon information and belief, in
26 connection with the Loan transaction, WSB took a security interest in the Subject
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1 Property in the form of a Deed of Trust recorded with the San Francisco County
2 Recorder's Office on December 28, 2006 as Instrument No. 2006-I304945-00.
3

4 In 2012, amidst disturbing news surrounding banks and lenders regarding the
5 mortgage crisis, and all the settlements and lawsuits that involved WELLS
6 FARGO, Plaintiff decided to inquire and track information regarding the
7 ownership of the debt obligation. Based on information received from Defendant
8 WELLS FARGO, Plaintiff decided to further investigate and track the ownership
9 of the debt obligation.
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12 After numerous letters and Qualified Written Request ("QWR") requesting
13 that they supply Plaintiff with certain information pertaining to the debt obligation,
14 Plaintiff mailed to Defendant, WELLS FARGO, a Notice of Rescission, cancelling
15 the debt obligation, on April 14, 2014. Attached as **Exhibit "C"** and incorporated
16 herein by reference is a copy of Plaintiff's Notice of Rescission. The Notice of
17 Rescission was sent by U.S.P.S. (United States Postal Service) Certified Mail,
18 tracking number 7013-3020-0001-4610-3090.
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22 Under the Act, a lender and/or creditor has no right or authority to grant or
23 deny, agree or disagree with a Notice of Rescission. It is effective by operation of
24 law the day it is mailed out. Strict construction of Reg. Z would dictate that the
25 voiding be considered absolute and not subject to judicial modification. If
26 Defendant, WELLS FARGO, wanted to challenge Plaintiff's Notice of Rescission
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1 or his right to rescind, they were required to file a declaratory action against
2 Plaintiff within the statutory twenty (20) day period mandated under TILA. They
3 failed to do so.
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5 Despite the fact that Defendant WELLS FARGO received Plaintiff's Notice
6 of Rescission, Defendant wrongfully and illegally foreclosed on Plaintiff's
7 Property on September 25, 2014.
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9 Because WELLS FARGO had failed to comply with Plaintiff's numerous
10 requests and due to Defendant's wrongful and illegal actions, Plaintiff decided to
11 hire a trained professional specialist to conduct a search on the debt obligation. On
12 September 26, 2014, a research was performed by using the Bloomberg Online
13 Database. Upon information received, Plaintiff believes the debt obligation was
14 transferred, assigned and/or sold to a private Trust known as the World Savings
15 REMIC 28 Trust, hereinafter referred to as 28 Trust. The 28 Trust had a closing
16 date of on or about February 26, 2007, well before WELLS FARGO acquired the
17 remaining assets from Wachovia on December 31, 2008. The information
18 provided to Plaintiff by WELLS FARGO did not match the information Plaintiff
19 received from the Bloomberg Specialist.
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25 As of the date of the filing of this action, WELLS FARGO has not followed
26 the California Uniform Commercial Code in endorsing the subject Promissory
27 Note and perfecting its security interest through valid Assignment of Deed of
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1 Trust. There is no evidence of any such assignments in San Francisco County
 2 records. Pursuant to TILA, the creditor's interest in the property is "automatically
 3 negated regardless of its status and whether or not it was recorded or perfected".
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 5 (*Official Staff Commentary* §§ 226.15(d)(1)-1, 226.23(d)(1)-1.).
 6

7 Plaintiff in the transaction complained of herein was made to understand,
 8 through the written terms of the contract, that the "Lender" within each contract
 9 was named as the sole encumbrancer through a first position lien deed of trust.
 10
 11 This was memorialized within the contract under the "Borrower's Closing
 12 Instructions" to escrow prior to closing. These instructions, *id.*, are considered a
 13 *condition precedent*¹ to closing the escrow and title passing to the encumbrancer of
 14 record (the named Lender).
 15

16
 17 Plaintiff learned, through research at a much later date, that the named
 18 Lender on the Note and Deed of Trust did not, in fact, provide the funds used at
 19 closing to fund the escrow. The parties that actually funded the loan, and who
 20 were supposed to be known to the Borrower, were parties known by escrow, the
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 24 ¹ *Borgonovo v. Henderson*, 182 Cal.App.2d 220 (1960) The court stated: "The evidence shows that this was done
 25 without express authority. ...No one had possession of the deed was authorized by Plaintiffs to deliver the same to
 26 the defendant. The delivery to the title company was for the limited purpose of recordation. No authority was
 27 thereby conferred to make delivery, and its act in mailing the instrument to the defendant did not have the effect of
 28 passing title ..." (Pp. 569-570.) No delivery of the note, within the meaning of section 3097 of the Civil Code, took
 place. As the court says in *Sousa v. First California Co.* (1950), 101 Cal.App.2d 533, 539 [225 P.2d 955], "Only
 after strict compliance with the condition imposed [emph. ours]... does the escrow holder begin to hold for the party
 hereby entitled. ..." *Bogan v. Wiley* (1949), 90 Cal.App.2d 288, 292 [202 P.2d 824], holds, "No rule is better settled
 than the one that the payee gets no property in a negotiable instrument until its delivery." And *Todd v. Vestermark*
 (1956), 145 Cal.App.2d 374, 377 [302 P.2d 347], states: "...a delivery or recordation by or on behalf of the escrow
 holder prior to full performance of the terms of the escrow is a nullity. No title passes."

1 named Lender, and all ancillary parties to the transaction(s) *except* the Plaintiff.

2 The actual “source of funds” was never provided to the Borrower or to Plaintiff
3 upon request, as such, the contract was never consummated pursuant to *12.C.F.R.*

4 *§226.2(a)(13)* and *California Civil Code § 1550*. Plaintiff, to date, alleges the

5 actual lender, the true “source of funds” for the loan has never been identified. The

6 “wiring instructions” (funds used at closing from an equitable lending entity to

7 Borrower’s escrow) to escrow were never revealed to the Plaintiff at closing, nor

8 did any counter-party to the consumer finance transaction ever verbally or orally

9 advise Plaintiff that there was a different encumbrancer that was considered a

10 “third party, off-record transaction”. This third party, off-record transaction, was

11 in fact, specifically stated as an “exception” to title insurance policy through

12 language of the Plaintiff’s closing title insurance policy and as a pattern and

13 practice of the title industry as a whole.

14 Plaintiff acknowledges that an obligation arose as a matter of law by

15 receiving the benefit of the transaction, however, Plaintiff does not admit that the

16 obligation that did arise has been memorialized or assented to within the

17 contractual/quasi-contractual relationship within the written contracts known as the

18 Promissory Note and Deed of Trust. Plaintiff alleges that the Borrower never

19 consented to the terms and conditions that were agreed upon between the surrogate

20 lender and the unknown “warehouse lender”. The practical effect of this

incestuous relationship is as follows: A) The “lender” named in the Note in this matter had secured a loan from a third party warehouse lender at different terms and conditions, thus, the surrogate lender named in the Note is a debtor to the true lender of funds²; the borrower named in the Note and Deed of Trust then borrows the same money loaned to surrogate lender at different terms and conditions than the original transaction, thus, the Borrower (Plaintiff) has no possible means of satisfaction or assent, and the surrogate lender (debtor) has offered no consideration, three bare essentials in the formation of a contract.

Plaintiff alleges that the borrower was subjected to consumer financial transactions that did not allow for a satisfaction of the debt to the real party entitled to such a satisfaction *ab initio*. Thus, the finance contract/quasi-contract has never been in favor of the proper party as a “Lender” and any and all documents that rely on the Notes and Deeds of Trust flow from a poisonous tree and lack equitable and legal authority. The unknown party as the beneficiary of the obligation never contracted with Plaintiff. This is an Article IX (U.C.C.) transaction by definition.

The consumer loan subject to this Complaint was funded by a secondary market provider of lending (“Warehouse Lender”) who pooled the proceeds from the sale of mortgage-backed securities in what is known as “forward-selling”. This

² Under Article 9, a “debtor” simply holds an interest (typically, an ownership interest), as opposed to a security interest or other lien, in the collateral. U.C.C. § 9-102(a)(28)(A). Additional parties defined in Article 9 include: the “obligor,” or, simply put, the party who owes the obligation secured by the collateral (and who may or may not also be the “debtor”), and the “secondary obligor,” a sub-class of obligors, who is essentially a guarantor or surety of the obligation secured. U.C.C. § 9-102(a)(59) and (71).

1 practice is common amongst major banking firms wherein the firm will “forward
2 sell” what are known as triple “AAA” rated mortgage-backed securities, then pool
3 the funds in an investment vehicle and create a secondary distribution network of
4 “warehouse lenders”. “Warehouse lending is a short-term involving the line of
5 credit provided to a mortgage banking company to fund the closing of mortgage
6 from the closing table to sale in the secondary market. The mortgage note is used
7 as collateral for interim financing until the mortgage is sold and delivered to the
8 permanent investor. Mortgage bankers draw upon the line of credit to fund a
9 mortgage at closing or to purchase a closed loan from another originator”. See
10 www.mbaa.org (Mortgage Bankers Association). Because material facts were
11 never disclosed to Plaintiff, Plaintiff’s rescission rights are within the three-year
12 statutory limitations and are timely. Since Defendant, WELLS FARGO, failed to
13 challenge the rescission within twenty (20) days, they have waived any and all
14 affirmative defenses to it.

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21 Furthermore, WSB, Plaintiff’s original lender, irrevocably sold all right, title
22 and interest in Plaintiff’s mortgage loan to the 28 Trust, a mortgage-backed
23 securities trust with a Real Estate Mortgage Investment Conduit, hereinafter
24 referred to as REMIC, election and continuing application. The sale occurred on
25 or about February 26, 2007, the Closing date of the 28 Trust as mandated by the
26 governing trust documents.
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1 In order for an investment entity to qualify as a REMIC, all steps in the
2 contribution and transfer of the notes must be a “true” and “complete” sale
3 between parties in order to achieve bankruptcy remoteness. Upon formation of the
4 REMIC – qualified 28 Trust, the Depositor sells the pooled mortgage loans in
5 exchange for the securities certificates issued by the trust. Each step of the “true
6 sales” process must be supported by effective delivery and certification of
7 acceptance of the receiving party of the endorse mortgage note **and** assigned deed
8 of trust, reflecting the complete intervening assignments and transfers of each
9 mortgage loan from each assignor to the last assignee.
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14 The securitization of Plaintiff’s mortgage loan is one transaction designed to
15 comply with the aforementioned requirements of the Tax Code. Specifically, the
16 first “true sale” occurred when WSB, as loan originator, sold Plaintiff’s loan to the
17 Sponsor/Seller, World Savings Bank, FSB, of the 28 Trust. **This was the first sale**
18 **of the Plaintiff’s mortgage loan**, but without effectively assigning the Deed of
19 Trust and indorsing the underlying original Promissory Note to the interim loan
20 purchaser Sponsor/Seller, World Savings Bank, FSB. Immediately thereafter, the
21 second sale occurred when the Sponsor/Seller of the Trust, World Savings Bank,
22 FSB, sold the securities certificates, backed by the securitized mortgage loans, to
23 the Depositor. **This was the second sale of the mortgage loan**, but without
24 effectively assigning the Deed of Trust and indorsing the underlying original
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1 Promissory Note to the interim loan purchaser Depositor of the 28 Trust.

2 Immediately thereafter, the third sale occurred when the Depositor of the 28 Trust
3 sold the securities certificates, backed by the securitized mortgage loans, to the
4 Issuing Entity, World Savings REMIC 28 Trust. **This was the third sale of the**
5 **Plaintiff's mortgage loan**, albeit still without the intervening assignment of
6 deed of trust and the underlying original Note from WSB to The Bank of New
7 York, as "Trustee" for the 28 Trust.
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11 In accordance with the precise terms and REMIC provisions of the PSA (i.e.,
12 required "true sale" of each mortgage loan), securitization Sponsor/Seller, World
13 Savings Bank, FSB and Depositor **were each paid in full** for selling Plaintiff's
14 mortgage loan in the verified securitization transaction. However, a review of the
15 chain of title of the mortgage property in the official records of the San Francisco
16 County Recorder does not show any valid assignment of the mortgage (Deed of
17 Trust) from original lender WSB to all of the aforementioned entities, on or about
18 February 26, 2007, the Closing date of the REMIC MBS Trust, or 90 days
19 thereafter.
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24 This was a material breach of the binding and governing terms of the trust
25 agreement, which resulted to an irreversible break in the chain of title of the
26 mortgage property and ownership of Plaintiff's mortgage loan – with the present
27 beneficiary, mortgagee and successor lender unassigned, undocumented and
28

1 UNKNOWN to date.

2 **Plaintiff is Entitled to Declaratory Relief Based on the Notice of Rescission**
 3 **Pursuant to TILA**

4 Congress has provided that the right to rescind is extended to the expiration
 5 of three years **after** consummation of the transaction; *15 U.S.C. § 1635(f); Reg. Z*
 6 *§§ 226.15(a)(3), 225.23(a)(3)*. Under California law, a loan contract **is not**
 7 consummated when the borrower signs the Promissory Note and Deed of Trust.
 8 In the case at bar, there was nondisclosure of material facts relating to the
 9 consumer transaction, the statutory three-year time frame has yet begin to run.
 10

11 Of primary concern and importance, as clarified in the United States
 12 Supreme Court in *Jesinoski v. Countrywide Home Loans, Inc.*, 135 S. Ct. 790, 190
 13 L. Ed. 2d 650, 574 U.S. (2015), the obligor's exercise of the rescission triggers a
 14 series of steps through which the transaction is unwound. First, when an obligor
 15 exercises his right to rescind, he is not liable for any finance charges or other
 16 charges, and any security interest given by the obligor becomes void upon
 17 rescission. *15 U.S.C. § 1635(b)*. Second, within twenty (20) days after receipt of
 18 the notice of rescission, the creditor shall return to the obligor any money or
 19 property given as earnest money, down payment, or otherwise, and shall take any
 20 action necessary or appropriate to reflect termination of any security interest
 21 created under the transaction. *Ibid.* Third, upon performance by the creditors'
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1 mandatory obligations under this section, the obligor shall tender any property the
2 creditor has previously delivered (or its reasonable value). *Ibid.* Pursuant to Reg.
3 Z notice is given by mail, telegram, or other means of written communication. 12
4 C.F.R. 226.23(a)(2); See 12 C.F.R. Pt. 226, Apps. H-8, H-9 (Model forms for
5 exercising Rescission Right); 12 C.F.R. 1026.239(a)(2).
6
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8 Erroneously, lower and federal Courts have misinterpreted *15 U.S.C § 1635*
9 as requiring the obligor to file a lawsuit to effect rescission. However, the plain
10 language of the statute puts no such requirement on the obligor. That provision
11 “says nothing in terms of an action” or a “suit’s commencement”; rather it speaks
12 to the “duration” of the rescission right. *Beach v. Ocwen Fed. Bank*, 523 U.S. 410,
13 417 (1998). The *Supreme Court* found nowhere does *15 U.S.C. § 1635(a)* allow
14 for a debate as to disputed or undisputed notices; simply put the transaction and its
15 contracts are void as a matter of law upon mailing the Notice of Rescission.
16
17
18 *Jesinoski, supra*, at 793. Based on the clarification of the TILA rescission by the
19 *Supreme Court*, Plaintiff’s contract became void as of April 14, 2014. Regardless
20 to whether Defendant feels it was timely or not, they failed to file a declaratory
21 action against Plaintiff within the statutory and mandatory twenty (20) day period.
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23
24 Regardless to whether the creditor fulfills its legal requirement to return all funds
25 paid on the loan and reflect the termination of the security instrument, the loan no
26 longer exists; the contract is void and any acts by any party based on the loan or
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1 contract are illegal.

2
3 Plaintiff alleges that the loan documents were prepared and executed in such
4 a way as to conceal material facts that remain undisclosed. In accordance with
5 section 125(f) of the Act, the rescission period is extended where there is
6 fraudulent concealment shown, as plead in this Complaint. *See Bank of New York*
7 *v. Waldon*, 751 N.Y. S. 2d 341 (Sup. Ct. 2002). In *Curry v. Fidelity Consumer*
8 *Discount Co.*, 656 F. Supp. 1129, the court held that: “The purpose of the Act are
9 further demonstrated through a standard of strict liability against creditors who fail
10 to make mandatory disclosure. 15 U.S.C. § 1640(a).
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15 *In Re Ramsey, supra*, on which the district court relied, focused on the
16 moment at which Reg. Z states that consummation occurred. But under Reg. Z
17 consummation cannot occur until the borrower becomes “contractually obligated,”
18 and under state law, the borrower is not contractually obligated before a contract
19 between the parties is formed. Reg. Z does not purport to substitute
20 “consummation” for “formation of a contract.”
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24 The statutory scheme created by Congress in TILA requires strict
25 compliance by creditors when it comes to rescission. TILA rests squarely on
26 procedure rather than substance. If a creditor acquiesces or fails to challenge a
27 borrower’s rescission within 20-days of a notice of rescission, the rescission is
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1 complete. Any defenses after the statutory 20 day period not only strays outside
2 the four-corners of the Complaint, but it strays outside the strict statutory
3 requirements of TILA.
4

5 Plaintiff mailed Defendant, WELLS FARGO, his Notice of Rescission on
6 April 14, 2014. Under §226.23(b), delivering notification to the person or address
7 to which the consumer has been directed to send, payments constitutes delivery to
8 the creditor or assignee. The Office Staff Commentary, a commentary made by the
9 Federal Reserve, clearly indicates notice to an agent can suffice as notice to the
10 principal. Rescission rights are equally enforceable against original creditors and
11 assignees. 15 U.S.C. § 1641(c). As noted by the Official Staff Commentary, the
12 creditor's interest in the property is **"automatically negated regardless of its
13 status and whether or not it was recorded or perfected"**. (*Official Staff
14 Commentary §§ 226.15(d)(1)-1, 226.23(d)(1)-1*). Furthermore, the **security
15 interest is void and of no legal effect** irrespective of whether the creditor makes
16 any affirmative response to the notice. Also, strict construction of Reg. Z would
17 dictate that the voiding be considered absolute and not subject to judicial
18 modification. The voiding of the security interest is not a procedure in a sense of a
19 step to be followed or an action to be taken. It is automatic by **operation of law**.
20 Since the rescission process is self-enforcing, failure to comply with the rescission
21 obligations subjects Defendants to potential liability. Non-compliance is a
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1 violation of the act which gives rise to a claim for actual and statutory damages
2 under *15 U.S.C. § 1640*, there has been no compliance by Defendants.

3
4 More than twenty days has elapsed since the Notice of Rescission was
5 received by Defendants and/or the actual “creditor”, and Defendant, WELLS
6 FARGO, has failed to perform any of the acts required by *15 U.S.C. § 1635(b)*, and
7 have instead, continue to try and enforce the debt by not canceling collection
8 efforts.
9
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11 **Doctrine of Equitable Tolling**

12 The doctrine of equitable tolling principles are to read into every federal
13 statute of limitations unless Congress expressly provides to the contrary in clear
14 and ambiguous language, *see Rotella v. Wood*, 528 U.S. 549, 560-61, 120 S. Ct.
15 1075, 145 L. Ed. 2d 1047 (2000). Since TILA does not evidence a contrary
16 Congressional intent, its statute of limitations must be read to be subject to
17 equitable tolling, particularly since the act is to be construed liberally in favor of
18 consumers.
19
20
21

22 The doctrine of equitable tolling is derived from the belief that a statute of
23 limitation should not run against a Plaintiff who is unaware of his cause of action.
24
25 *See Mucha v. Dwinski*, 1991 WL 46534 which held:

26
27 The doctrine of equitable tolling is derived from the belief that a
28 statute of limitation should not run against a plaintiff who is unaware
of his cause of action. *Cerbone v. Intern. Ladies' Garment Workers'*

1 *Union*, 768 F.2d 45, 48 (2d Cir. 1985). While originally developed in
 2 the context of actions based on fraud, the doctrine has been applied in
 3 situations where the defendant has engaged in conduct that concealed
 4 from the plaintiff the existence of the action of action. *Ibid.* Thus, as
 5 a “matter of fairness,” a court may toll the running of the applicable
 6 limitation period where an employee has been “misled by his employer”
 7 or where some “extraordinary” circumstance has prevented him from
 8 exercising his rights. *Cerbone, supra* at 49; *Miller v. Intern. Tel. & Tel.*
 9 *Corp.*, 755 F.2d 20, 24 (2d Cir.) cert. denied, 474 U.S. 851, 106 S. Ct.
 10 148, 88 L.Ed.2d 122 (1985); *see also Dillman V. Combustion*
 11 *Engineering, Inc.*, 784 F.2d 57, 60 (2d Cir. 1986).

12 The equitable maxim that “no man may take advantage of his own wrong,”
 13 older than the country itself, is deeply rooted in our federal jurisprudence. As
 14 stated by Mr. Justice Miller in *Insurance Co. v. Wilkinson*, 80 U.S. (13 Wall.) 222,
 15 233, 20 L.Ed. 617 (1871):

16 The principal is that where one party has by his representation or
 17 his conduct induced the other party to a transaction to give him an
 18 advantage which it would not in a court of justice be permitted to
 19 avail himself or the advantage...where the technical advantage thus
 20 obtained is set up and relied on to defeat the ends of justice or establish
 21 a dishonest claim.

22 Repeatedly throughout our judicial history, the Supreme Court has applied
 23 equitable tolling to statutes of limitations to prevent unjust results or to maintain
 24 the integrity of a statute. *See Bailey v. Glover*, 88 U.S. (21 Wall) 342, 349-50, 22
 25 L.Ed. 636 (1874) (Bankruptcy Act of 1867); *Exploration Co. Ltd. v. United States*,
 26 247 U.S. 435, 449-50, 38 S.Ct. 571, 573-74, 62 L.Ed. 1200 (1918) (Act of March
 27 3, 1891, 26 Stat. 1093, to vacate land patents); *Holmberg v. Armbrrecht*, 327 U.S.
 28

392, 66, S.Ct. 582, 90 L.Ed. 743 (1946) (Federal Farm Home Act); *Glus v. Brooklyn Eastern District Terminal*, 359 U.S. 231, 79 S.Ct. 760, 3 L.Ed.2d 770 (1959) (Federal Employers' Liability Act). Cf. *Zipes v. Trans World Airlines*, 455 U.S. 385, 102 S.Ct. 1127, 71 L.Ed.2d 234 (1982) (Title VII time requirement for filing charges with Equal Employment Opportunity Commission).

Furthermore, lenders could structure the transaction so that borrowers could not discover the nondisclosure until the statute of limitations have elapsed, as is the case in the case at bar. See *Jones v. TransOhio Savings Ass'n.*, 569 F.Supp. 1188, 1190-91 (N.D. Ohio 1983), rev'd 747 F.2d 1037 (6th Cir. 1984). Because borrowers may not discover the TILA Violations until more than the allotted time under TILA after execution of the original contract, it would be inconsistent with the remedial and consumer protection goals of the statute to bar suit when there is no reasonable way for the borrower to discover the wrong within the limitations period. See *Postow v. OBA Federal S & L Ass'n*, 627 F.2d 1370, 1379 (D.C. Cir.1980).

The scheme of TILA is to create a system of private attorney generals to aid its enforcement, see *McGowan v. King, Inc.*, 569 F.2d 845, 849 (5th Cir. 1978). Thus, Congress through TILA, sought to protect consumers' choice through full disclosure and to guard against the divergent and at times fraudulent practices stemming from uninformed use of credit. See *Mourning v. Family Publications*

1 *Service, Inc.*, 411 U.S. 356, 363-64 nn. 18, 19, 93 S.Ct. 1652, 1657-58 nn. 18, 19,
 2 36 L.Ed 318 (1973) (citing H.R.Rep. No. 1040, 90th Cong., 1st Sess., 13 (1967);
 3 S.Rep. No. 392, 90th Cong., 1st Sess. 1-2 (1967) U.S. Cong. & Admin.New 1968, p.
 4 1962). The courts have construed TILA as a remedial statute, interpreting it
 5 liberally for consumer. *Riggs v. Government Employees Financial Corp.*, 623 F.2d
 6 68, 70-71 (9th Cir. 1980). As the Sixth Circuit noted, “[o]nly if Congress clearly
 7 manifests its intent to limit the federal court’s jurisdiction will it be precluded from
 8 addressing allegations of fraudulent concealment which by their very nature, if
 9 true, serve to make compliance with the limitation period imposed by Congress an
 10 impossibility.” *Jones v. TransOhio Savings Ass’n.*, 747 F.2d at 1041.

11 It has been held that the limitations period in *Section 1641(e)* runs from the
 12 date of consummation of the transaction but the doctrine of tolling may, in the
 13 appropriate circumstances, suspend the limitations period until the borrower
 14 discovers or had reasonable opportunity to discover the fraud or nondisclosures
 15 that form the basis of the TILA action.

22 **The Foreclosure was Wrongful and Illegal**

23 A Deed of Trust to real property acting as security for a loan typically has
 24 three parties: the trustor (borrower), the beneficiary (lender), and the trustee. The
 25 non-judicial foreclosure system is designed to provide the lender-beneficiary with
 26 an inexpensive and efficient remedy against a defaulting borrower, while
 27
 28

1 protecting the borrower from wrongful loss of the property and ensuring that a
2 properly conducted sale is final between the parties and conclusive as to a bona
3 fide purchaser. *Moeller v. Lien* (1994) 25 Cal.App.4th 822, 830.)

4
5 In the case at bar, Plaintiff's Deed of Trust was canceled by operation of law
6 as of April 14, 2014. No legal or rightful foreclosure could have taken place.
7 Furthermore, Defendant was not the entity who owned Plaintiff's debt obligation
8 or the entity who was entitled to payment.
9
10

11 A beneficiary or trustee under a Deed of Trust who conducts an illegal,
12 fraudulent or willfully oppressive sale of property may be liable to the borrower for
13 wrongful foreclosure. *Chavez v. Indymac Mortgage Services* (2013) 219
14 Cal.App.4th 1052, 1062; *Munger v. Moore* (1970) 11 Cal.App.3d 1, 7.) A
15 foreclosure initiated by one with no authority to do so is wrongful for purposes of
16 such an action. *Barrionuevo v. Chase Bank, N.A.*, supra, 885 F. Supp.2d at pp.
17 973-974; *Ohlendorf v. American Home Mortgage Servicing* (E.D. Cal. 2010) 279
18 F.R.D. 575, 582-583.) This is the case in the matter at bar. Plaintiff suffered a
19 foreclosure by an entity that had no authority to do so and was NOT the original
20 beneficiary or the assignee or agent of the entity who had authority to instruct the
21 trustee to initiate and complete a non-judicial foreclosure sale.
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26 Furthermore, since Plaintiff's originating lender was never registered to
27 transact business in the State of California, the Deed of Trust was void. A void
28

1 contract is without legal effect. “It binds no one and is a mere nullity.” (*Little v.*
2 *CFS Service Corp.* (1987) 188 Cal.App.3d 1354, 1362.) “Such a contract has no
3 existence whatsoever. It has no legal entity for any purpose and neither action or
4 inaction of a party to it can validate it...” *Colby v. Title Ins. And Trust Co.* (1911)
5 160 Cal. 632, 644.)
6

7
8 If a purported assignment, or lack of one, necessary to the chain of title by
9 which the foreclosing entity claims that power is absolutely void, meaning of no
10 legal force or effect whatsoever (*Colby v. Title Ins. And Trust Co., supra*, 160 Cal.
11 At p. 644; Rest.2d Contracts, § 7, com. a), the foreclosing entity has action without
12 legal authority by pursuing a trustee’s sale, and such an unauthorized sale
13 constitutes a wrongful foreclosure. *Barrionuevo v. Chase Bank, N.A.*, at pp. 973-
14 974.) Only the ‘true owner’ or ‘beneficial holder’ of a Deed of Trust can bring to
15 completion a non-judicial foreclosure under California law.” *Barrionuevo v.*
16 *Chase Bank, N.A.* (N.D.Cal. 2012) 885 F.Supp.2d 964, 972; *see Herrera v.*
17 *Deutsche Bank National Trust Co.* (2011) 196 Cal.App.4th 1366, 1378 [bank and
18 reconveyance company failed to establish they were current beneficiary and
19 trustee, respectively, and therefore failed to show they “had authority to conduct
20 the foreclosure sale:]; cf. *U.S. Bank Nat. Assn. v. Ibanez* (Mass. 2011) 41 N.E.2d
21 40, 51 [under Mass. Law, only the original mortgagee or its assignee may conduct
22 non-judicial foreclosure sale].) Defendant, WELLS FARGO, lacked the power
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1 and authority to initiate and complete the foreclosure on June 25, 2014.

2 Unlike a voidable transaction, a void one cannot be ratified or validated by
3 the parties to it even if they so desire. *Colby v. Title Ins. and Trust Co., supra*, 160
4 Cal. at p. 644; *Arnoff v. Albanese, supra*, 446 N.Y.S.2d at p. 370.) Parties to a
5 securitization or other transfer may well wish to ratify the transfer agreement
6 despite any defects, but no ratification is possible if the assignment is void *ab*
7 *initio*. In seeking a finding that a Deed of Trust and assignment agreement was
8 void, therefore, a plaintiff in Plaintiff MOHANNA's position is not asserting the
9 interests of parties to the assignment or Deed of Trust; he is asserting his own
10 interest in limiting foreclosure on his property to those with legal authority to order
11 a foreclosure sale. This, then, is not a situation in which standing to sue is lacking
12 because its "sole object...is to settle rights of third persons who are not parties."
13 *Golden Gate Bridge etc. Dist. V. Felt* (1931) 214 Cal. 308, 316.)

14 A foreclosed-upon borrower clearly meets the general standard of standing
15 to sue by showing an invasion of his or her legally protected interest (*Angelucci v.*
16 *Century Supper Club* (2007) 41 Cal.4th 160, 175) – the borrower has lost
17 ownership to the home in an allegedly illegal trustee's sale. (See *Culhane, supra*,
18 708 F.3d at p. 289 [foreclosed-upon borrower has sufficient personal stake in
19 action against foreclosing entity to meet federal standing requirement.

20 //

Burden of Proof and Elements

All Plaintiff is required to show is the loan was rescinded by virtue of a written notice. Period. Plaintiff has done so as evidenced by **Exhibit "C"**.

No Tender Required

Pursuant to TILA, after Defendant, WELLS FARGO, received Plaintiff's Notice of Rescission, it had two options to take within the statutory twenty (20) day calendar period. It could have begun the unwinding process by returning the down payment or earnest money and taking action to "reflect the termination of [the] security interest," pursuant to *15 U.S.C. § 1635(b)*. Those actions would, in turn, have triggered Plaintiff's obligation to tender a payoff of the remaining amount. *See Lippner v. Deutsche Bank Nat'l Trust Co.*, 544 F. Supp. 2d at 702 ("The issue of whether [the borrower] can satisfy her rescission obligations [does] not arise until [the lender] ha[s] completed [its] obligations pursuant to TILA.") In the alternative, Defendant, WELLS FARGO, could have filed a declaratory lawsuit against Plaintiff to dispute Plaintiff's right to rescind the loan. Defendant did neither of those things and the time for them to act has expired. Once the time has expired, it is gone. Under TILA, after the statutory twenty (20) days are completed, the rescission is no longer subject to attack and its effective upon the date it was mailed.

//

As a Matter of Law the Notice of Rescission was Effective

The Notice of Rescission was mailed on April 14, 2014; the creditor, Defendant, WELLS FARGO, had twenty (20) days to file an action in dispute of the Notice of Rescission and chose NOT to do so. The loan, Deed of Trust, and/or contract is void and must be cancelled as a matter of law effective April 14, 2014.

VII.

RELIEF REQUESTED

Plaintiff re-alleges each of the previous allegations as if set forth fully herein.

WHEREFORE, Plaintiff hereby requests Declaratory Relief as per the April 14, 2014 Notice of Rescission as follows:

a. That the Deed of Trust recorded on December 28, 2006 in the San Francisco County Recorder's Office as Instrument No. 2006-I304945-00 be declared null and void.

b. That all documents recorded on or against title to the subject property in the San Francisco County Recorder's Office after April 14, 2014 be declared null and void

c. That a Judicial Declaration be entered, that the title to subject "Property", is vested in Plaintiff alone and that Defendants and each of them be declared to have no interest either Legal or Equitable, right, estate, or lien in subject

1 “Property”, and that the Defendants, their Agents or Assigns, be forever enjoined
2 from asserting estate, right, title or interest to subject “Property”.
3

4 d. For a declaration that the security interest in Plaintiff’s Property is void,
5 canceled by operation of law.
6


7 e. Award Plaintiff statutory damages for Defendant’s failure to comply with
8 TILA including Defendant’s failure to properly file a declaratory action against
9 Plaintiff to challenge the Notice of Rescission within the twenty (20) calendar days
10 allowed under the Act. *15 U.S.C. § 1635(b)*.
11

12 f. For reasonable cost of suit incurred in this action and attorney’s fees and.
13

14 g. For such additional and further relief as the Court may deem proper and
15 reasonable.
16

17 DATED: February 15, 2016

18 Respectfully submitted by:
19

20 
21 Keyhan Mohanna, individually and as Trustee
22 of the Keyhan Mohanna Revocable Trust Dated
23 July 8, 2003
24 Plaintiff
25
26
27
28

VERIFICATION

I, Keyhan Mohanna, an individual and as Trustee of the Keyhan Mohanna Revocable Trust Dated July 8, 2003, am the Plaintiff in the above-entitled action. I have read the foregoing complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in San Francisco, California on February 15, 2016.



Keyhan Mohanna, individually and as Trustee
of the Keyhan Mohanna Revocable Trust Dated
July 8, 2003
Plaintiff

Exhibit A

EXHIBIT "A"**DESCRIPTION**

All that certain land situated in the State of California, County of **SAN FRANCISCO**, City of **SAN FRANCISCO**, described as follows:

PARCEL 1:

CONDOMINIUM UNIT NO. 1, LOT 50, AS SHOWN UPON THE CONDOMINIUM MAP AND DIAGRAMMATIC FLOOR PLAN ENTITLED "MAP OF 1405 GREENWICH STREET" WHICH WAS FILED FOR RECORD ON DECEMBER 10, 1999 IN PARCEL MAP BOOK 44, AT PAGES 60 TO 65, INCLUSIVE, AND THE "AMENDMENT TO CONDOMINIUM PLAN" RECORDED MAY 5, 2000 AS DOCUMENT NO. 2000-G769926-00, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA (REFERRED TO HEREIN AS "THE MAP"), AND AS FURTHER DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF 1405 GREENWICH STREET HOMEOWNERS ASSOCIATION RECORDED ON MAY 5, 2000 AS DOCUMENT NO. 2000-G769926-00, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA (REFERRED TO HEREIN AS "THE DECLARATION").

EXCEPTING THEREFROM, ANY PORTION OF THE COMMON AREA LYING WITHIN SAID UNIT.

RESERVING THEREFROM:

(A) EASEMENTS THROUGH SAID UNIT, APPURTENANT TO THE COMMON AREA AND ALL OTHER UNITS, FOR SUPPORT AND REPAIR OF THE COMMON AREA ALL OTHER UNITS.

(B) EASEMENTS, APPURTENANT TO THE COMMON AREA FOR ENCROACHMENT UPON THE AIR SPACE OF THE UNIT BY THOSE PORTIONS OF THE COMMON AREA LOCATED WITHIN THE UNIT.

PARCEL II:

AN UNDIVIDED 100% INTEREST IN AND TO THE COMMON AREA AS SHOWN AND DEFINED ON THE MAP, RESERVING THEREFROM THE FOLLOWING:

(A) EXCLUSIVE EASEMENTS, OTHER THAN PARCEL III, AS DESIGNATED ON THE MAP AND RESERVED BY GRANTOR TO UNITS FOR USE AS DESIGNATED IN THE DECLARATION; AND

(B) NONEXCLUSIVE EASEMENTS APPURTENANT TO ALL UNITS FOR INGRESS AND EGRESS, SUPPORT, REPAIR AND MAINTENANCE.

PARCEL III:

(A) THE EXCLUSIVE EASEMENT TO USE THE PARKING AREA(S) DESIGNATED P-1 AND P-2, ON THE HEREINABOVE MENTIONED "AMENDMENT TO CONDOMINIUM PLAN".

PARCEL IV:

A NONEXCLUSIVE EASEMENT APPURTENANT TO PARCEL I ABOVE FOR SUPPORT, REPAIR AND MAINTENANCE, AND FOR INGRESS AND EGRESS THROUGH THE COMMON AREA IN ACCORDANCE WITH CALIFORNIA CIVIL CODE SECTION 1361 (A).

PARCEL V:

ENCROACHMENT EASEMENTS APPURTENANT TO THE UNIT IN ACCORDANCE WITH THE PROVISIONS OF THE DECLARATION.

APN No: LOT 050 BLOCK 0523

Exhibit B

State of California

Secretary of State

Certificate of No Record Corporation

I, ALEX PADILLA, Secretary of State of the State of California, hereby certify:

That the Corporations Code of the State of California provides for the preparation and execution of Articles of Incorporation and their filing in the office of the Secretary of State in order to incorporate a California corporation; and

That the Corporations Code of the State of California provides for the filing in the office of the Secretary of State of a Statement and Designation and a Certificate of Good Standing (certified copy of Articles or Certificate of Incorporation as to a corporation qualified prior to September 18, 1959) in order to qualify a foreign corporation to transact intrastate business in this State.

I further certify that a diligent search has been made in the corporate files of this office and that there is no record of a California or foreign corporation, active or inactive, of the name: **WORLD SAVINGS BANK, FSB**

IN WITNESS WHEREOF, I execute
this certificate and affix the Great Seal
of the State of California this day of
February 12, 2016.



A handwritten signature in black ink, appearing to read "Alex Padilla".

ALEX PADILLA
Secretary of State

Exhibit C

April 14, 2014

Wells Fargo Home Mortgage
c/o Mr. John Stumpf
420 Montgomery Street
San Francisco, CA 94104

Sent Certified Mail #7013 3020 0001 4610 3090

RE: KEYHAN MOHANNA AS TRUSTEE OF THE KEYHAN
MOHANNA REVOCABLE TRUST DATED JULY 8, 2003 AND KEYHAN MOHANNA
INDIVIDUALLY

Alleged Account #: 44723880 (*Wells Fargo*)

Property Address: 1405 Greenwich Street, Unit #1, San Francisco, CA 94109

To Whom It May Concern:

I HEREBY EXERCISE MY RIGHT TO RESCIND THE LOAN TRANSACTION IN ITS ENTIRETY UNDER THE USURY AND GENERAL CLAIMS THEORIES AND CAUSES OF ACTION. BY FAILING TO DISCLOSE THE TRUE LENDER AND USING SUBTERFUGE TO HIDE THE FACT THAT THE "LENDER" AT CLOSING WAS PAID TO POSE AS THE LENDER WHEN IN FACT AN UNDISCLOSED UNREGISTERED THIRD PARTY HAD RENTED THE CHARTER OR LENDING LICENSE OF THE "LENDER," THE LIMITATION ON MY RIGHT TO RESCIND WAS EXTENDED INDEFINITELY. UNDER STATE AND FEDERAL LAW, THE MORTGAGE IS NOW EXTINGUISHED AND YOUR RIGHTS UNDER THE TRUSTEE DEED, IF ANY, HAVE TERMINATED.

PURSUANT TO 12 C.F.R. §226.2(a)(13), "CONSUMMATION" OF THE LOAN OCCURS WHEN THE BORROWER IS "CONTRACTUALLY OBLIGATED." THE POINT AT WHICH A "CONTRACTUAL OBLIGATION...IS CREATED" IS A MATTER OF STATE LAW. UNDER CALIFORNIA LAW, CALIFORNIA CODE OF CIVIL PROCEDURE § 1550, A CONTRACT IS FORMED WHEN THERE ARE (1) PARTIES CAPABLE OF CONTRACTING, (2) MUTUAL CONSENT, (3) A LAWFUL OBJECT, AND (4) SUFFICIENT CAUSE OF CONSIDERATION.

"THE NINTH CIRCUIT HELD THAT UNDER CALIFORNIA LAW, A LOAN CONTRACT WAS NOT CONSUMMATED WHEN THE BORROWER SIGNED THE THE PROMISSORY NOTE AND DEED OF TRUST BECAUSE THE ACTUAL LENDER WAS NOT KNOWN AT THAT TIME. UNDER THESE CIRCUMSTANCES, MY LOAN WAS NOT "CONSUMMATED" AND IS STILL NOT "CONSUMMATED" BECAUSE THE ACTUAL LENDER, THE TRUE "SOURCE OF FUNDS" FOR MY LOAN, HAS NOT BEEN IDENTIFIED. UNTIL THE ACTUAL LENDER IS IDENTIFIED THERE IS NO LEGALLY ENFORCEABLE CONTRACT." JACKSON V. GRANT, 890 F.2d (9th Circuit 1989).

I hereby rescind the above referenced loan and/or declare it to be null and void and demand treble damages for the face value of the note.

PLEASE GOVERN YOURSELVES ACCORDINGLY!

Sincerely,

A handwritten signature in cursive script that reads "Keyhan Mohanna".

Keyhan Mohanna, Individually and as Trustee of the Keyhan Mohanna
Revocable Trust Dated July 8, 2003